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HOUSE BILL 365

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO HEALTH INSURANCE; MANDATING THAT PRIVATE AND PUBLIC HEALTH INSURANCE INCLUDE COVERAGE FOR ANY CANCER THERAPIES FOR CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

A. Group health care coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for any cancer therapy that is prescribed for individuals from birth to nineteen years of age, without regard to:

(1) its inclusion on any formulary;

(2) federal food and drug administration

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1 approval status for that therapeutic use in question; or

2 (3) any other limiting factor for therapies  
3 provided in accordance with the prescribing physician's best  
4 medical judgment and meeting reasonable standards of quality of  
5 care consistent with prevailing professionally recognized  
6 standards of medical practice.

7 B. This section applies to any therapy prescribed  
8 to cancer patients, whether to treat the cancer itself, to  
9 treat its side effects, to treat the side effects of the  
10 treatment itself or to improve the likelihood of treatment  
11 success.

12 C. The provisions of this section shall not apply  
13 to short-term travel, accident-only or limited or specified  
14 disease policies."

15 Section 2. A new section of the Public Assistance Act is  
16 enacted to read:

17 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

18 A. The department shall promulgate rules for  
19 coverage for any cancer therapy that is prescribed for medicaid  
20 recipients from birth to nineteen years of age without regard  
21 to:

22 (1) its inclusion on any formulary;

23 (2) federal food and drug administration  
24 approval status for that therapeutic use in question; or

25 (3) any other limiting factor for therapies

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1 provided in accordance with the prescribing physician's best  
2 medical judgment and meeting reasonable standards of quality of  
3 care consistent with prevailing professionally recognized  
4 standards of medical practice.

5 B. This section applies to any therapy prescribed  
6 to cancer patients, whether to treat the cancer itself, to  
7 treat its side effects, to treat the side effects of the  
8 treatment itself or to improve the likelihood of treatment  
9 success.

10 C. The department shall ensure that the cancer  
11 therapy coverage described in Subsections A and B of this  
12 section is in compliance with federal requirements and shall  
13 apply for any waivers or medicaid state plan amendments that  
14 the federal department of health and human services or the  
15 federal Social Security Act requires to institute that cancer  
16 therapy coverage.

17 D. Nothing in this section shall require the  
18 department to expend state funds for cancer therapies when the  
19 secretary does not reasonably expect to receive federal  
20 matching funds for those expenditures.

21 E. The department shall make every effort to obtain  
22 from pharmaceutical manufacturers any medications prescribed  
23 for cancer patients free of charge when federal matching funds  
24 are unavailable.

25 F. The department shall quarterly publish in a

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1 publicly accessible and prominent manner on its web site a list  
2 of pharmaceutical manufacturers that agree to provide  
3 medications prescribed for cancer patients free of charge and a  
4 list of those pharmaceutical manufacturers that refuse to  
5 supply those medications free of charge."

6 Section 3. A new section of Chapter 59A, Article 22 NMSA  
7 1978 is enacted to read:

8 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

9 A. An individual or group health insurance policy,  
10 health care plan or certificate of health insurance that is  
11 delivered, issued for delivery or renewed in this state shall  
12 provide coverage for any cancer therapy that is prescribed for  
13 individuals from birth to nineteen years of age without regard  
14 to:

- 15 (1) its inclusion on any formulary;
- 16 (2) federal food and drug administration  
17 approval status for that therapeutic use in question; or
- 18 (3) any other limiting factor for therapies  
19 provided in accordance with the prescribing physician's best  
20 medical judgment and meeting reasonable standards of quality of  
21 care consistent with prevailing professionally recognized  
22 standards of medical practice.

23 B. This section applies to any therapy prescribed  
24 to cancer patients, whether to treat the cancer itself, to  
25 treat its side effects, to treat the side effects of the

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1 treatment itself or to improve the likelihood of treatment  
2 success.

3 C. The provisions of this section shall not apply  
4 to short-term travel, accident-only or limited or specified  
5 disease policies."

6 Section 4. A new section of Chapter 59A, Article 23 NMSA  
7 1978 is enacted to read:

8 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

9 A. A blanket or group health insurance policy or  
10 contract that is delivered, issued for delivery or renewed in  
11 this state shall provide coverage for any cancer therapy that  
12 is prescribed for individuals from birth to nineteen years of  
13 age without regard to:

- 14 (1) its inclusion on any formulary;  
15 (2) federal food and drug administration  
16 approval status for that therapeutic use in question; or  
17 (3) any other limiting factor for therapies  
18 provided in accordance with the prescribing physician's best  
19 medical judgment and meeting reasonable standards of quality of  
20 care consistent with prevailing professionally recognized  
21 standards of medical practice.

22 B. This section applies to any therapy prescribed  
23 to cancer patients, whether to treat the cancer itself, to  
24 treat its side effects, to treat the side effects of the  
25 treatment itself or to improve the likelihood of treatment

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1 success.

2 C. The provisions of this section shall not apply  
3 to short-term travel, accident-only or limited or specified  
4 disease policies."

5 Section 5. A new section of Chapter 59A, Article 46 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

8 A. An individual or group health maintenance  
9 contract that is delivered, issued for delivery or renewed in  
10 this state shall provide coverage for any cancer therapy that  
11 is prescribed for individuals from birth to nineteen years of  
12 age without regard to:

- 13 (1) its inclusion on any formulary;  
14 (2) federal food and drug administration  
15 approval status for that therapeutic use in question; or  
16 (3) any other limiting factor for therapies  
17 provided in accordance with the prescribing physician's best  
18 medical judgment and meeting reasonable standards of quality of  
19 care consistent with prevailing professionally recognized  
20 standards of medical practice.

21 B. This section applies to any therapy prescribed  
22 to cancer patients, whether to treat the cancer itself, to  
23 treat its side effects, to treat the side effects of the  
24 treatment itself or to improve the likelihood of treatment  
25 success.

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1 C. The provisions of this section shall not apply  
2 to short-term travel, accident-only or limited or specified  
3 disease policies."

4 Section 6. A new section of Chapter 59A, Article 47 NMSA  
5 1978 is enacted to read:

6 "[NEW MATERIAL] CANCER COVERAGE FOR CHILDREN.--

7 A. An individual or group health insurance policy,  
8 health care plan or certificate of health insurance that is  
9 delivered, issued for delivery or renewed in the state shall  
10 provide coverage for any cancer therapy that is prescribed for  
11 individuals from birth to nineteen years of age, without regard  
12 to:

13 (1) its inclusion on any formulary;

14 (2) federal food and drug administration  
15 approval status for that therapeutic use in question; or

16 (3) any other limiting factor for therapies  
17 provided in accordance with the prescribing physician's best  
18 medical judgment and meeting reasonable standards of quality of  
19 care consistent with prevailing professionally recognized  
20 standards of medical practice.

21 B. This section applies to any therapy prescribed  
22 to cancer patients, whether to treat the cancer itself, to  
23 treat its side effects, to treat the side effects of the  
24 treatment itself or to improve the likelihood of treatment  
25 success.

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C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies."